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*Attorneys for United Recovery Group for
Equality*

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

AEQUITAS MANAGEMENT, LLC;
AEQUITAS HOLDINGS, LLC; AEQUITAS

CV No. 3:16-cv-00438-PK

UNITED RECOVERY GROUP FOR
EQUALITY'S MOTION TO
INTERVENE

COMMERCIAL FINANCE, LLC; AEQUITAS
CAPITAL MANAGEMENT, INC.; AEQUITAS
INVESTMENT MANAGEMENT, LLC;
ROBERT J. JESENİK; BRIAN A. OLIVER; and
N. SCOTT GILLIS,

Defendants.

KEITH L. BARNES; BLACKNER STONE AND
ASSOCIATES DEFINED BENEFIT PLAN;
PAUL GULICK; TOM MULFLUR; STEVE
SHARP; PAUL E. SYLVAN; AMAR GUPTA,
as trustee of the Starbright Trust dated
January 30, 1997; and ZHONG JIU GUO,

Proposed Intervenors.

LR 7-1 CERTIFICATION

Counsel was unable to confer pursuant to Local Rule 7-1 before filing based on the timing of retention and the Court's deadline. Counsel for the proposed intervenors intends to complete the conferral process at the beginning of next week.

MOTION

Miller Nash Graham & Dunn LLP represents certain holders of promissory notes that were issued by Aequitas-affiliated companies and purchasers of ownership interests in Aequitas-related funds. These investors collectively refer to themselves as the United Recovery Group for Equality ("URGE"). This is a group that will grow in size in the coming days and weeks. Present members of URGE have collectively invested more than \$12 million in or through various Aequitas investment vehicles. URGE has claims against the defendants in this action that arise from many of the facts alleged in the Complaint. URGE may also have claims against third party individuals and entities that share common questions of law and fact with the claims and allegations asserted in this action.

Pursuant to Fed R Civ P Rule 24(b), URGE moves to permissively intervene so that it can adequately protect its interests in this proceeding, as well as its interest in preserving and prosecuting claims that cannot be asserted by a receiver.¹ For example, a receiver would not have standing to assert certain claims on behalf of Aequitas investors like URGE members, including claims against third parties for violations of Oregon securities laws. *See, e.g., Johnson v. Chilcott*, 590 F Supp 204, 208-209 (D Colo 1984) (citing *Rochelle v. Marine Midland Grace Trust Co.*, 535 F2d 523 (9th Cir 1976) and holding that federally-appointed receiver did not have standing to assert securities and state-law fraud claims based on misrepresentations similar to those existing in this case); *Baker v. Heller*, 571 F Supp 419, 420 (SD Fl 1983) (holding that a receiver did not have standing to assert securities claims on behalf of injured investors).

As drafted, however, the proposed Stipulated Order Appointing Receiver (Dkt. No. 3) (the "Order") could be interpreted to unduly restrict the pursuit and development of such claims by investors against entities and individuals that are not defendants in this proceeding. The Order could also be construed to restrict the pursuit of claims against property that would not become part of the receivership estate. Accordingly, URGE seeks intervention, in part, to file objections to paragraphs of 17, 20, 21, and 22 of the Order, which should be modified or otherwise clarified to allow the pursuit of such claims and related discovery.

¹ URGE reserves any potential right to intervene as of right under Fed R Civ P Rule 24(a).

With investments that exceed \$12 million and expected to grow much larger, URGE has a significant stake in the prosecution and outcome of this proceeding. URGE respectfully asks that its motion to intervene be granted.

DATED this 18th day of March, 2016.

MILLER NASH GRAHAM & DUNN LLP

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I hereby certify that I served the foregoing motion to intervene (United Recovery Group for Equality) on:

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by the following indicated method or methods on the date set forth below:



CM/ECF system transmission.



E-mail. As required by Local Rule 5.2, any interrogatories, requests for production, or requests for admission were e-mailed in Word or WordPerfect format, not in PDF, unless otherwise agreed to by the parties.



Facsimile communication device.



First-class mail, postage prepaid.



Hand-delivery.



Overnight courier, delivery prepaid.

and on the following by first-class mail, postage prepaid:

Mr. Ronald F. Greenspan
FTI Consulting
633 W. 5th Street
16th floor
Los Angeles, California 90071

DATED this 18th day of March, 2016.

/s/ Dennis P. Rawlinson

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*Attorneys for United Recovery Group for
Equality*